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**THE COMMONWEALTH OF MASSACHUSETTS****HUMAN RESOURCES DIVISION**

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**RULES GOVERNING PAID LEAVE AND OTHER BENEFITS FOR MANAGERS AND CONFIDENTIAL EMPLOYEES --- APPROVED NOVEMBER 18, 1999****As authorized by Massachusetts General Laws, Chapter 7, Section 28****Table of Contents****1.00 GENERAL**

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## **1.00 GENERAL**

### **1.01 Authority**

These rules are issued by the Personnel Administrator in accordance with M.G.L., Chapter 7, §28. The Personnel Administrator shall decide all questions arising out of the operation of these rules.





## **1.02 Purpose**

These rules regulate the awarding of vacation leave, sick leave and other leave with pay; overtime compensation; payments in lieu of any of the preceding; travel and meals for persons traveling within and outside of Massachusetts; charges to state employees; prevention of accidents and occupational diseases; and other miscellaneous benefits.

## **1.03 Effective Date**

These rules are effective upon receipt. Any previous rules or policies of the Personnel Administrator or the Secretary of Administration and Finance governing vacation leave, sick leave, travel, court leave, military leave, other leave with pay, hours of employment and overtime, or charges to persons are hereby revoked, but no rule shall reduce vacation, personal or sick leave allowances to which a person was entitled on the effective date of these rules.

## **1.04 Applicability**

With the exception mentioned below, these rules shall apply to all employees and managers employed in the Executive Branch of the Commonwealth whose positions are classified by the Personnel Administrator in accordance with M.G.L., Chapter 30, §45, except those employees covered by collective bargaining agreements based upon M.G.L., Chapter 150E, or whose compensation or expenses while performing their duties is expressly provided for by law in a manner other than that provided by these rules.

The rules concerning meal reimbursement while traveling on state business apply to all persons employed by offices, departments, boards, commissions and other agencies receiving state appropriations, as stated in M.G.L., Chapter 7, §28.

## **1.05 Appeal**

Any person subject to these rules or any Appointing Authority, if aggrieved, may appeal in accordance with the procedure set out in M.G.L., Chapter 30, §§53 to 57.

## **1.06 Attendance Records**

All Appointing Authorities having employees who are subject to these rules shall maintain attendance records in a format as directed by the Personnel Administrator. Attendance records will incorporate reasons for any absences from scheduled work periods. Such records shall be open to inspection by the Secretary of Administration and Finance, the Personnel Administrator, and the State Auditor as well as the affected employee.

If an employee subject to these rules is absent for reasons other than those authorized by these rules or by special approval of the Appointing Authority, such absence from scheduled work shall be charged off in same manner as described for sick leave charges in Rule 4.05.

## **1.07 Definitions of Terms**

The definitions here listed are intended for use only with the rules contained herein. In construing these rules the following words shall have the meaning herein given, unless a contrary intention clearly appears in the rule:

**ABSENCE WITHOUT PAY:** Any unauthorized absence from scheduled work.



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**APPOINTING AUTHORITY:** a person, board or commission with the power to appoint or employ personnel; or his/her designee.

**CABINET SECRETARY:** The head of an executive office, as defined in M.G.L., Chapter 6A.

**CALENDAR MONTH:** The month of January, the month of February, etc., and is synonymous to the word "month."

**COMPENSATED TIME:** Time during which compensation for regularly scheduled work is paid.

**CREDITABLE SERVICE:** As defined in Rules 2.04 and 4.01.

**DAY:** When used in overtime rules it will mean work day, a period of 24 consecutive hours from the start of a "tour of duty" and the word "work day" need not be identical to a calendar day. For the purpose of all leave benefits and holidays, the term "day" with respect to employees who work an irregular work day or whose regular work day is longer than the normal seven and a half or eight hours shall mean seven and one-half or eight hours, whichever is appropriate.

**DEPARTMENT:** Office, department, division, board or commission.

**EMPLOYEE:** An employee or manager to whom these rules apply, pursuant to Rule 1.04.

**FISCAL YEAR:** Fiscal Year for pay purposes as determined by the various Appropriation Acts.

**HUMAN RESOURCES DIVISION:** The central human resources agency for Executive Branch departments, as authorized by Chapter 151 of the Acts of 1996.

**INTERMITTENT EMPLOYEE:** An employee who is expected to work less than 50% of the hours in a work week of a regular full-time employee in the same title, or who is expected to work less than 50% of a work year of a full-time employee (compare to REGULAR PART-TIME EMPLOYEE).

**LEAVE OF ABSENCE WITH PAY:** any authorized absence with pay from scheduled work, synonymous with "Leave with Pay."

**LEAVE OF ABSENCE WITHOUT PAY:** any authorized absence from scheduled work but without pay.

**NOTICE OF AUTHORIZATION:** Monthly premiums report - direct payment of insurance premiums to State Employees' Group Insurance Commission as provided by statute.

**PERSONNEL ADMINISTRATOR:** The head of the Human Resources Division as defined in M.G.L., Chapter 7, §4A, or his/her designee.

**Political Subdivision of the Commonwealth:** All branches and agencies of state, local and county government, including the legislative and judicial branches, municipalities, state and local authorities, constitutional offices, state colleges and universities, and district attorneys. Does not include the federal government or its agencies.

**REGULAR PART-TIME EMPLOYEE:** An employee who is expected to work 50% or more of the hours in a work week of a regular full-time employee in the same title (e.g., at least 18.75 hours for a 37.5 hour weekly tour of duty), and who is employed for at least 50% of a work year.





**RULES:** These rules, as mandated by M.G.L., Chapter 7, §28, unless the connotation is expressly otherwise.

**SERVICE:** Service in any position in the Commonwealth covered by these rules, unless otherwise indicated. Service shall also include any approved paid leave of absence as described in these rules, and industrial accident leave.

**TRANSITION YEAR:** Fiscal year in which an employee becomes eligible for additional vacation leave credits, based on years of creditable service.

**VACATION ALLOWANCE:** Vacation credits earned during any year.

**VACATION CREDITS:** The number of days of vacation earned and available under the rules in Section 2.00, not necessarily limited to a year.

**VACATION STATUS:** The amount of vacation credits that can be earned in a year.

**VETERAN:** As defined in M.G.L., Chapter 4, §7, clause 43.

**WEEK:** For the purpose of vacation rules, will mean five days, excluding holidays; for the rules pertaining to overtime, it will mean a "calendar week" i.e., a week extending from Sunday to Saturday inclusive.

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## **2.00 VACATION LEAVE**

### **2.01 Accrual of Vacation Leave**

Employees will accumulate vacation leave with pay on a monthly basis, on the last day of each full month worked, not to exceed the following:

Length of Creditable Service Vacation Credit Accumulated:

Monthly Annually

Less than 4.5 years 1 day 12 days

4.5 years, but less than 9.5 years 1 1/4 days 15 days

9.5 years, but less than 19.5 years 1 2/3 days 20 days

19.5 years or more 2 1/12 days 25 days

On July 1<sup>st</sup> of a transition year, the higher standard monthly accrual rate will begin. Example: If an employee reaches 4.5, 9.5 or 19.5 years of creditable service in December, the higher accrual rate will begin the preceding July.

Vacation credits shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.





## **2.02 Part-Time Employees**

Regular part-time employees shall accumulate vacation credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid vacation.

## **2.03 Vacation Status and Creditable Service**

For determining vacation status, "creditable service" will be used. An employee's creditable service begins with the first working day of the first full calendar month of work. All service thereafter becomes "creditable service" provided there has not been a break of three years or more in such service as referred to in Rule 2.12.

Creditable service for purposes of vacation status only will also mean service in any political subdivision of the Commonwealth prior to entry into a position covered by these rules, provided that no break in service of three years or more occurred between termination of employment in the political subdivision and entrance into a covered position. In order to credit such prior service toward vacation status, an employee must submit to his/her Appointing Authority a sworn statement of such service executed by the appropriate official of the political subdivision.

## **2.04 Reductions to Vacation Status**

Unless otherwise provided for by law, when an employee is on Leave Without Pay or Absence Without Pay for 20 or more cumulative work days in any year, such leave or absence must be proportionately deducted from the monthly vacation leave credits for that year and any service in that year will not be "creditable service" for vacation status purposes.

When an employee reaches 20 work days of Leave Without Pay or Absence Without Pay during a year, the vacation leave balance during the month in which 20 or more work days is reached will be reduced. The number of vacation days to be deducted from the monthly vacation leave balance will be determined by the number of Leave Without Pay or Absence Without Pay days as the numerator. The number of days the employee is required to work for the year will be the denominator. This result will be multiplied by the total number of vacation days that would be earned in that year.

For every subsequent month during that year in which additional Leave Without Pay or Absence Without Pay days occur, the credited monthly vacation leave balance will be reduced based on the number of additional Leave Without Pay or Absence Without Pay days that occurred during that month. The number of vacation days to be deducted during that month will be determined by using only the Leave Without Pay or Absence Without Pay days occurring in that month, not to include previous Leave Without Pay or Absence Without Pay days of prior months, as the numerator in the above formula.

## **2.05 Conversion of Vacation Credits During Industrial Accident Leave**

If an employee on Industrial Accident Leave has available vacation credits which have not been used and if he/she, because of the two year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits on December 31<sup>st</sup> of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

## **2.06 Crediting of Accumulated Vacation**





Vacation leave earned during any year will be credited on the last day of each full month worked and will be available for use on the first working day of the following month. However, in the case of any employee whose services terminated on the last day of any month, he/she will be credited with vacation leave earned during that month in accordance with these rules and will be paid for such leave.

## **2.07 Approval of Vacation Leave**

Appointing authorities will grant vacation leave at such times during the vacation year as will best serve the public interest. Preference should be given employees on the basis of years of employment by the Commonwealth.

## **2.08 Carryover of Vacation Accrual**

The Appointing Authority will grant vacation leave in the year in which it becomes available, unless in his/her opinion it is impossible or impractical to do so because of work schedules or other emergencies. Unused vacation leave earned during the previous two years can be carried over on January 1 for use during the following year. Annual accumulated vacation leave credit not used by December 31<sup>st</sup> of the second year after it was earned will be forfeited. The Appointing Authority is charged with the responsibility of ensuring that vacation is taken in the succeeding years so that the employee may not lose vacation credits; except as provided in rule 2.05.

## **2.09 Use of Vacation Credits for Sick Leave Purposes**

Absences due to illness in excess of that authorized under the rules thereof for personal reasons not provided for under sick leave rules may, at the discretion of the Appointing Authority, be charged to vacation leave.

## **2.10 Payment of Unused Vacation Credits Upon Death of Employee**

Upon the death of an employee, payment will be made in an amount equal to no more than two years of unused earned vacation leave provided that no monetary or other allowance has already been made therefor. The Personnel Administrator may, upon request of the Appointing Authority of the deceased person, authorize the payment of such compensation upon the establishment of a valid claim, in the following order of precedence:

First: To the surviving beneficiary or beneficiaries, if any, lawfully designated by the person under the state employees' retirement system:

Second: If there is no such designated beneficiary, to the estate of the deceased. (M.G.L., Chapter 29, §31A).

## **2.11 Cash Out of Unused Vacation Credits Upon Termination**

Employees whose services terminated by resignation, by dismissal through no fault or delinquency of their own, by retirement, or by entrance into the defense forces, shall be paid an amount equal to the vacation allowance of no more than two years of unused earned vacation leave, provided that no monetary or other allowance has already been made therefor.

## **2.12 Crediting of Prior Service Upon Reinstatement/Reemployment**

Employees who are reinstated or who are reemployed shall be entitled to the vacation status they had





achieved at the termination of their previous service. No credit for previous service may be allowed where reinstatement occurs after absence of three years unless the Appointing Authority secures the approval of the Personnel Administrator for any of the following reasons:

- Illness of the employee and not because of illness of his/her immediate family.
- Termination due to a reduction in force (layoff).
- Injury while in the service of the Commonwealth in the line of duty and for which the employee would be entitled to receive Workers' Compensation Benefits.

### **2.13 Transfer of Vacation Leave Credits from other State Agencies**

Employees who enter positions covered by these rules from other state agencies not covered by these rules (including the judicial or legislative branches of state government, institutions of higher education, the Constitutional Offices, certain sheriffs' departments, the district attorneys, and other state agencies, but excluding state authorities and all other political subdivisions), and who had unused accumulated vacation credits at the time of their termination from such other state agencies, may be allowed to transfer such unused accumulated vacation leave credits upon approval in writing by the Appointing Authority and the Personnel Administrator.

This transfer of credits will be allowed provided that there has been less than a three-year break in service from the date of termination of the employment in such other state agency, and provided that the employee has not already been compensated for such credits by the previous employer.

The amount of credits to be transferred will be limited to the amount allowed for creditable service under rule 2.01 and limited by the two year carryover rule (2.08). For

example, an employee who was previously employed for one year by a district attorney and who earned 15 days of vacation credits in that year would only be able to transfer 12 days of such credits upon entering a position covered by these rules.

### **2.14 School Employees in Non-Teaching Positions**

Employees in non-teaching positions in any school within any department, whose regular service is rendered between September 1<sup>st</sup> and June 30<sup>th</sup>, may be granted the vacation leave to which they are entitled either during the period of their regular service, or after the expiration of said period, as is determined by the Appointing Authority. Such employees shall be credited with 10/12 of vacation allowance per school year.

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## **3.00 PERSONAL LEAVE**

### **3.01 Accrual of Personal Leave**

On each January 1, full-time employees on the payroll as of that date will be credited with three days of personal leave credits. Full-time employees, beginning state service or after the first day of the calendar year, shall be credited with paid personal leave as follows:

Personal Leave



### Date of Employment Granted

January 1, through March 31 3 days

April 1 through June 30 2 days

July 1 through September 30 1 day

October 1 through December 31 0 day

### **3.02 Use of Personal Leave**

Personal leave may be taken during the calendar year when requested by such employee and upon approval by his/her Appointing Authority. Any personal leave not taken by December 31<sup>st</sup> of the calendar year in which it was credited will be forfeited.

### **3.03 Part-Time Employees**

Regular part-time employees shall accumulate personal leave credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid personal leave.

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## **4.00 SICK LEAVE**

### **4.01 Accrual of Sick Leave**

Full-time employees shall accumulate sick leave with pay credits not to exceed 15 working days for each year of service (1.25 days/month). Sick leave credit will begin at once for employees starting work on the first working day of a calendar month. In all other cases, credit will begin the first working day of the month following employment, and will accumulate each calendar month thereafter. Sick leave not used in any year may be accumulated without limit.

### **4.02 Reductions/Limits to Sick Leave Credits**

Full-time employees shall not accumulate sick leave credits for any month in which they were on leave without pay or absence without pay for more than one day.

Sick leave shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

### **4.03 Part-Time Employees**

Regular part-time employees shall accumulate sick leave credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid sick leave.





#### **4.04 Conversion of Vacation Credits During Industrial Accident Leave**

If an employee on Industrial Accident Leave has available vacation credits which have not been used and if he/she, because of the two year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits on December 31<sup>st</sup> of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

#### **4.05 Limit of Paid Sick Leave**

When an employee is absent due to illness, such absence will be charged off against any sick leave credits he/she may have. All absence due to illness must be charged off in multiples of one-half or full hours, but in no case at less than the actual time off because of absence due to illness.

If such employee has no sick leave credits, such absence shall be charged at the discretion of his/her Appointing Authority to leave without pay, to absence without pay or to vacation or personal leave but shall be charged off on the same basis as above.

No employee shall be entitled to a leave of absence with pay due to illness in excess of the accumulated sick, vacation and personal leave then due.

Sick leave credits accumulated following a return to duty after leave without pay or absence without pay shall not be applied against such leave or absence.

#### **4.06 Accrual While on Paid Leave**

Employees on any type of leave with pay covered by these rules, or on Industrial Accident leave, will continue to accumulate sick leave credits while on such leave.

#### **4.07 Approved Use of Sick Leave**

Sick leave shall be granted, at the discretion of the Appointing Authority, to employees only under the following conditions:

- When they are unable to perform their duties due to illness or injury.
- When through exposure to contagious disease the presence of the employee at his/her work location would jeopardize the health of others.
- When appointments with licensed medical or dental professionals cannot reasonably be scheduled outside of normal working hours for purposes of medical treatment or diagnosis of an existing medical or dental condition.
- An employee may use up to a maximum of 12 weeks (60 days) of sick leave per calendar year (concurrent with any FMLA entitlement used) for the purpose of:
  - Caring for the spouse, child, or parent of either the employee or his/her spouse, or for a person living in the employee's immediate household who is seriously ill.
  - Parental leave due to the birth or adoption of a child, to be concluded within 12 months of the date of the birth or adoption. Eligible employees utilizing sick leave under this section shall not be required to submit a medical certification, unless the appointing authority has reason to





believe that the birth or adoption claim was not genuine. This leave benefit shall be in addition to the ten days of paid leave set forth in section 5.02 (A).

- Where an eligible full or part-time employee and his/her eligible spouse are both employees of the Commonwealth, they may be jointly granted a total of not more than 12 weeks (60 days) of accrued sick leave as set forth above for the care of a seriously ill parent or for parental leave due to birth or adoption.
- An employee may use up to a maximum of 10 days of accrued sick leave in a calendar year for the purpose of attending to necessary preparations and legal requirements related to the employee's adoption of a child, except that in no event may an employee charge more than a total of sixty days in a calendar year for adoption related purposes.
- An employee may use up to a maximum of 10 days of sick leave per calendar year for the purpose of attending to necessary preparations and/or legal proceedings related to foster care of DSS children, such as foster care reviews, court hearings and MAPS training for pre-adoptive parents (this is in addition to the 10 days of paid leave [Rule 5.02] for the initial foster placement); HRD may approve a waiver of the 10-day limit for difficult placements. See also 8.06, Other Leaves of Absence with Pay.

The granting of sick leave is solely in the discretion of the Appointing Authority but if granted the provisions of this rule must be followed.

#### **4.08 Notification**

Notification of absence due to illness shall be given as early as possible on the first day of absence. If such notification is not made, such absence may, at the discretion of the Appointing Authority, be applied to absence without pay. For any period of absence due to illness the Appointing Authority may require, for purpose of additional evidence only, a physician's certificate for the necessity of such absence. If such certificate is not filed within seven calendar days after a request is made, such absence may be applied, at the discretion of the Appointing Authority, to absence without pay. Parental sick leave for the birth or adoption of a child does not require a doctor's certificate.

The Personnel Administrator shall regularly review reports of sick leave usage within each department. The Personnel Administrator may require further evidence that such leave comes within the provisions of these rules; and if, upon examination of such evidence, the Personnel Administrator is of the opinion that said leave is not in accordance with these rules, the Personnel Administrator shall so notify the Appointing Authority. Upon receipt of such notice, said leave shall be changed from sick leave to leave without pay, to absence without pay, or to vacation leave.

#### **4.09 Fitness for Duty**

Upon return to duty following extended sick leave in excess of five consecutive working days, the Appointing Authority may require a physical examination to determine the employee's fitness to perform his/her duties. At such examination the employee, if he/she so desires, may be represented by a physician of his/her own selection.

#### **4.10 Cashout of Sick Leave Credits Upon Retirement**

Employees who retire directly from active employment and who have accumulated unused sick leave credits shall be paid an amount equal to 20% of the value of such credits, computed by multiplying the number of days sick leave available times the daily rate of salary received by the employee at the time of his/her retirement. Such payment for unused sick leave shall not affect the amount of retirement allowance available to such employee. See 4.13 for an exception to this rule.





No cashout of sick leave will be allowed for employees who defer their date of retirement.

#### **4.11 Payment of Sick Leave Credits Upon Death of Employee**

If an employee dies while actively employed, his/her estate shall be paid 20% of the value of the unused sick leave credits accumulated by the employee as of the date of death.

#### **4.12 Crediting of Prior Service Upon Reinstatement/Reemployment**

Employees who are reinstated or who are re-employed shall be credited with the amount of sick leave credits remaining at the termination of their previous service. No credit for previous service may be allowed where reinstatement/re-employment occurs after an absence of three years or more unless the Appointing Authority secures the approval of the Personnel Administrator for any of the following reasons:

- Illness of the employee and not because of illness of his/her immediate family.
- Termination due to layoff.
- Injury while in the employment of the Commonwealth and for which such employee would be entitled to receive Workers' Compensation benefits.

#### **4.13 Sick Leave in Coordination with Workers' Compensation**

In addition to sick leave benefits provided for in these rules, employees shall be entitled to additional disability benefits provided for by law upon completion of the leave of absence with pay due to illness.

An employee who is entitled to any sick leave allowance may take such of his/her sick leave allowance payment as, when added to the amount of any disability compensation provided by statute, will result in the payment of his/her full salary (M.G.L., Chapter 152, §69). An employee who is receiving weekly benefits for total incapacity under M.G.L., Chapter 152 may not use sick leave for this purpose that has been accrued during the time of total incapacity (M.G.L., Chapter 32, §14).

If an employee is injured in the line of duty, and such injury could result in a potential claim under M.G.L., Chapter 152, he/she shall be paid sick leave, vacation leave and/or personal leave up to the extent of his/her credits until payments under the Workers' Compensation Law begin. Any adjustments due because of the effects of this rule shall be made thereafter. Any absence resulting from such injury that is in excess of available sick, vacation or personal credits shall be deemed absence without pay (M.G.L., Chapter 30, §58). Whenever an employee is given a leave of absence because of operation of this rule, the Appointing Authority shall immediately furnish the employee "notice of authorization" that the employee must pay to the Group Insurance Commission the appropriate full insurance premium as provided for in M.G.L., Chapter 32A.

Notwithstanding the above provision of this rule, however, an employee who, while in the line of duty, receives bodily injuries resulting from acts of violence of patients or prisoners in his/her custody, and who as a result of such injury would be entitled to benefits under M.G.L., Chapter 152, shall be paid the difference between the weekly cash benefits to which he/she would be entitled under M.G.L., Chapter 152 and his/her regular salary, without such absence being charged against available sick leave credits, even if such absence may be for less than six calendar days' duration. (M.G.L., Chapter 30, §58; and Chapter 152, §69).

In computing a week's salary for purposes of refunds or adjustments in the case of Workers'





Compensation, the periods being compared shall include in both cases the same calendar days used in making such adjustments, irrespective of the number of days in the regularly scheduled work week. At no time may an employee receive more than his/her regular salary for period in question as the result of Workers' Compensation, except in the case of vacation or overtime credits payable under M.G.L., Chapter 152, §69. An employee who is receiving weekly benefits for total incapacity under M.G.L., Chapter 152, and who subsequently retires from active service, may not consider for cashout purposes the amount of sick leave that was accrued during the time of total incapacity (M.G.L., Chapter 32, §14).

#### **4.14 Transfer of Sick Leave Credits from other Political Subdivisions.**

Employees who enter positions covered by these rules from other state agencies not covered by these rules (including the judicial or legislative branches of state government, institutions of higher education, the Constitutional Offices, certain sheriffs' departments, the district attorneys, and other state agencies, but excluding state authorities and all other political subdivisions), and who had unused accumulated sick leave credits at the time of their termination from such other state agencies, may be allowed to transfer such unused accumulated sick leave credits upon approval in writing by the Appointing Authority and the Personnel Administrator.

This transfer of credits will be allowed provided that there has been less than a three-year break in service from the date of termination of employment in such other state agency, and that the employee has not already been compensated for such credits by the previous employer.

The amount of credits to be transferred will be limited to the amount allowed for creditable service under Rule 4.01, and reduced by the amount of credits actually used during such previous employment. For example, a full-time employee who worked one year for a college, earned sick leave credits at the rate of two days per month for a total of 24 days and used three of those days would only be able to transfer 12 of the remaining 21 days (based on the 15 day/year accrual rate in Rule 4.01).

#### **4.15 Sick Leave Positions**

Upon the vacancy of any position covered by these rules, the Appointing Authority shall, if he/she assigns an employee in a classification of lower grade and pay to that vacancy for a period of more than 30 calendar days, request approval of the Personnel Administrator for the temporary appointment of the employee to the position. The employee so appointed shall be entitled to the compensation of the higher grade from the first day of assignment. This rule does not apply to assignment of an employee to cover a higher position when the incumbent of the higher position is absent on vacation leave but is intended to apply only when the incumbent of the higher position is on sick leave (M.G.L., Chapter 30, §24B).

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## **5.00 FAMILY AND MEDICAL LEAVE**

### **5.01 Applicability**

Rules 5.01 through 5.11 are administered in accordance with regulations issued by the U.S. Department of Labor under the authority of the Family and Medical Leave Act (FMLA) of 1993, and applicable state law. The FMLA provides an entitlement of up to 12 weeks of job-protected, unpaid leave during any 12 months for the following reasons. The Commonwealth of Massachusetts provides for its full-time and part-time employees an unpaid leave of absence of up to **52 weeks** for those same reasons:





- Birth and care of the employee's child or placement for adoption or foster care of a child with an employee;
- To care for an immediate family member (spouse, child, parent) who has a serious health condition; or
- For the employee's own serious health condition.

In order to be eligible for this leave, the employee must have completed his or her probationary period or, if there is no probationary period, must have been employed for three consecutive months.

Refer to Rule 15.00 for information on the Adoption Assistance Program.

## **5.02 Use of Family or Medical Leave**

### **A. Family Leave**

An Appointing Authority shall grant to a full-time or part-time employee who has completed his/her probationary period or, if there is no probationary period, who has been employed for at least 3 consecutive months, an unpaid leave of absence for up to 52 weeks in conjunction with the birth, adoption or foster placement of a child as long as the leave concludes within 12 months following the date of the birth, adoption or foster placement. During family leave taken in conjunction with the birth, adoption or foster placement of a child, an employee shall receive his/her regular salary for 10 days of said leave, at a time requested by the employee. These 10 days of paid leave may be used on an intermittent basis over the 12 months following the birth, adoption or placement, except that the leave may not be charged in increments of less than one day. The 12 weeks of parental sick leave an employee may take for the birth or adoption of a child (Rule 4.07) is in addition to these 10 days of paid family leave.

### **B. Medical Leave**

An Appointing Authority shall grant to a full-time or part-time employee who has completed his/her probationary period or, if there is no probationary period, who has been employed for at least three consecutive months, an unpaid leave of absence for up to 52 weeks to care for a spouse, child or parent who has a serious health condition or for a serious health condition which prevents the employee from being able to perform the function of his/her position.

## **5.03 Eligible Employees Who Are Married to One Another**

Where an eligible full-time or part-time employee and his/her eligible spouse are both employees of the Commonwealth, they may jointly be granted a total of not more than 52 weeks of unpaid leave to care for the employee's parent with a serious medical condition; or in conjunction with the birth, adoption or foster placement of a child as long as the leave(s) conclude(s) within 12 months following the birth, adoption or foster placement. If the leave is requested because of the illness of a child or of the other spouse, each spouse is entitled to 52 weeks of unpaid leave. The female is entitled to up to 8 of those combined 52 weeks under M.G.L. c. 149, Section 105D for maternity or adoption purposes.

Where an eligible full-time or part-time employee and his/her spouse both use a portion of the total 52 weeks FMLA to care for an employee's parent with a serious medical condition or in conjunction with the birth, adoption or foster placement of a child, the spouses would each be entitled to the difference between the amount he/she has taken individually and 52 weeks for FMLA leave in order to care for the spouse or child of the employee if such spouse or child has a serious health condition





or because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

Of the combined total of 52 weeks provided in the first paragraph above, a combined total of not more than 10 days shall be paid under Section 5.02 (A) of these Rules, with the remainder unpaid, except that the employee may use such credits for which he/she may otherwise be eligible under the sick leave, personal leave or vacation leave sections of these Rules.

#### **5.04 Notice Requirements for Family and Medical Leave**

At least 30 days in advance, the employee shall submit to the Appointing Authority a written notice of his/her intent to take family or medical leave and the dates and expected duration of the leave. If 30 days notice is not possible, the employee shall give notice as soon as practicable. The employee shall provide upon request by the Appointing Authority proof of the birth, placement or adoption of a child.

#### **5.05 Continuation of Benefits During Family Leave**

Employees taking an unpaid leave of absence under Section 5.02(A) will accumulate sick and vacation leave benefits only for the first 8 weeks of such unpaid leave. The period of family leave granted under these rules shall not affect the employee's right to receive any benefits for which the employee was eligible at the start of his/her leave.

#### **5.06 Satisfactory Evidence for Family and Medical Leave**

The employee shall provide upon request by the Appointing Authority, satisfactory medical evidence, which is defined as:

- In the case of the employee's illness, a signed statement by a licensed physician, physician's assistant, nurse practitioner, chiropractor or dentist stating that he/she has personally examined the employee, explaining the nature of the illness or injury (unless identified as being of a confidential nature), and stating that the employee was unable to perform his/her duties due to the specific illness or injury on the days in question.
- In the case of illness of spouse, child or parent, a signed statement by a medical provider as defined above indicating that the person in question has been determined to be seriously ill and needing care on the days in question.

The statement shall be on the letterhead of the attending physician or medical provider or adoption/foster placement agency, and shall list an address and phone number. If the Appointing Authority has reason to doubt the validity of the medical evidence, the Appointing Authority may obtain a second opinion at his/her own expense. If there is a conflict between the second opinion and the original medical statement, the Appointing Authority and the employee may resolve the conflict by obtaining the opinion of a third medical provider, who is approved jointly by the Appointing Authority and the employee, at the Appointing Authority's expense. This requirement does not apply to the birth or adoption of a child.

#### **5.07 Intermittent Leave and Modified Work Schedules**

Intermittent leave usage and modified work schedules may be granted when a spouse, child or parent has a serious medical condition and is dependent upon the employee for care. When such changes to the work schedule are medically necessary, the employee and the Appointing Authority shall attempt to work out a schedule which meets the needs of the employee without unduly disrupting the operations of the workplace.



### **5.08 Use of Paid Leave to Offset Unpaid Family or Medical Leave**

Of the combined total of 52 weeks provided for in this section, a combined total of not more than 10 days shall be paid, with the remainder unpaid, except that if the employee has accumulated sick leave, vacation leave or other personal leave credits, the employee may use such credits for which he/she may be eligible under the applicable rules.

### **5.09 Payment for Holiday During Family or Medical Leave**

Between periods of unpaid family or medical leave, if an employee returns to work for a period of less than two weeks, and if a holiday occurs during that return to work, no holiday pay or compensatory time shall be granted for that holiday.

### **5.10 Continuation of Group Insurance Benefits During Family or Medical Leave**

Employees are entitled to the same group health insurance coverage and benefits that they received at the start of their unpaid leaves, for the entire 52 weeks of unpaid leave, unless prohibited by law.

### **5.11 Reemployment Rights under Family and Medical Leave**

At the expiration of family or medical leave, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the start of his/her leave. If during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the employee will be extended the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

### **5.12 Non-FMLA Family Leave**

Non-FMLA Family Leave in Rules 5.12 through 5.16 shall refer to rules of the Personnel Administrator governing leave for care of family members that does not come under the jurisdiction of the Family and Medical Leave Act.

An Appointing Authority may grant to a full or regular part-time employee who has completed his/her probationary period or, if there is no probationary period, who has been employed for at least 3 consecutive months, an unpaid leave of absence of up to 10 weeks in order to care for, or to make arrangements for the care of a grandparent, a grandchild, a sister or brother living in the same household, or a child (whether or not the child is the natural, adoptive, foster, stepchild or child under legal guardianship of the employee).

### **5.13 Notice Requirement for Non-FMLA Family Leave**

The employee shall give at least 2 weeks' prior notice of his/her anticipated date of departure and notice of his/her intention to return to work, at the time of making the request for non-FMLA family leave.

### **5.14 Intermittent Non-FMLA Family Leave**

Ten days of non-FMLA family leave may be taken in not less than one-day increments, with prior approval of the Appointing Authority.

### **5.15 Use of Paid Leave to Offset Unpaid Non-FMLA Family Leave**







If an employee has accumulated sick, personal, or vacation credits at the commencement of his/her family or medical leave, the employee may use such credits for which he/she may be eligible under the applicable rules.

#### **5.16 Payment for Holiday During Non-FMLA Family Leave**

Between periods of unpaid Non-FMLA family leave, if an employee returns to work for a period of less than 2 weeks, and if a holiday occurs during that return to work, no holiday pay or compensatory time shall be granted for that holiday.

#### **5.17 Small Necessities Leave Act: Applicability**

Rules 5.17 through 5.20 are administered in accordance with Massachusetts General Law Chapter 149, Section 52D, which became effective on August 4, 1998.

#### **5.18 Use of Small Necessities Leave**

An employee shall be entitled to a total of 24 hours of unpaid leave during any 12 month period, in addition to leave available under the Family and Medical Leave Act of 1993, for the following purposes:

1. to participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;
2. to accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and
3. to accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

#### **5.19 Use of Paid Leave to Offset Unpaid Small Necessities Leave**

If an employee has accumulated sick, personal, or vacation credits at the commencement of his/her small necessities leave, the employee may use such credits for which he/she may be eligible under the applicable rules. The Act does not require employers to provide paid sick leave or paid medical leave in any situation where the employer would not normally provide such paid leave.

#### **5.20 Notice Requirements for Small Necessities Leave**

At least 7 days in advance, the employee shall submit to the Appointing Authority a written notice of his/her intent to take small necessities leave and the date and expected duration of the leave. If 7 days notice is not possible, the employee shall give notice as soon as practicable.

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### **6.00 MILITARY LEAVE**

#### **6.01 Paid Military Leave**

An employee shall be entitled during the time of his/her service in the armed forces of the Commonwealth under M.G.L., Chapter 33, §§38, 40, 41, 42 (rescinded by Chapter 134 §2 of the Acts



of 1979) or 60, or during his/her annual tour of duty not exceeding 17 days as a member of a reserve component of the armed forces of the United States, to receive pay therefore, without loss of his/her regular compensation as an employee of the Commonwealth.

Such employee shall also be entitled to the same leaves of absence and vacation with pay given to other employees under M.G.L., Chapter 33, §59.

### **6.02 Call to Active Duty from U.S. Armed Forces Reserves**

An employee in the service of the Commonwealth who is a member of a reserve component of the armed forces of the United States and who is called for duty other than the annual tour of duty of not exceeding 17 days shall be subject to the provisions of Chapter 708 of the Acts of 1941 as amended, or Chapter 805 of the Acts of 1950 as amended, or Chapter 671 of the Acts of 1966 and amendments thereto. He/she is also subject to the provisions of 38 U.S.C. Chapter 43, §§2021 to 2024, as amended, and shall be entitled to all rights and benefits derived therefrom.

### **6.03 Unpaid Military Leave Due to Active Duty**

- An employee who tenders his/her resignation or otherwise terminates his/her service for the purpose of serving in the military or naval forces of the United States, and who does so serve or is rejected for such service, shall be considered to be on unpaid military leave, except as otherwise provided by Chapter 708 of the Acts of 1941 as amended or 38 U.S.C. Chapter 43, §§2021 to 2024, as amended.
- No such employee shall be considered to have resigned from employment with Commonwealth or to have terminated such service, until the expiration of two years from the termination of his/her military or naval service.

### **6.04 Part-Time Employees**

Regular part-time employees shall be entitled to all of the above military leave benefits.

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## **7.00 COURT LEAVE**

### **7.01 Court Leave for Jury Duty**

Employees called for jury duty shall be granted court leave. Notice of service shall be filed with the Appointing Authority upon receipt of summons. This applies to both full and regular part-time employees.

### **7.02 Jury Fees**

If jury fees received by an employee from the court equal or exceed the employee's regular rate of compensation, the employee may retain the excess of such fees and shall turn over to the Appointing Authority the regular rate of compensation with a court certificate of service and shall be deemed to be on leave of absence with pay.

### **7.03 Court Leave Due to Witness Summons**

- Employees who are summoned to appear as witnesses on behalf of the Commonwealth, or any





town, city, or county of the Commonwealth, or on behalf of the Federal Government, shall be granted court leave. Notice of service shall be filed with the Appointing Authority upon receipt of summons. Employees who are on court leave for this purpose and who receive witness fees for services during their regular office hours shall pay those fees to the Commonwealth.

- If an employee is summoned to appear as a witness because of the duties of an additional position with a public jurisdiction other than the Commonwealth, the employee shall not be granted court leave.

#### **7.04 Court Leave Not Granted**

Court leave shall not be granted when an employee is the defendant, is summonsed as a witness for a defendant (except as in 7.03) or is engaged in personal litigation.

#### **7.05 Court Leave While on Vacation**

If an employee is called for jury duty or witness service and such jury duty or witness service occurs during the employee's vacation, the employee need not pay those fees to the Commonwealth.

#### **7.06 Expense Reimbursement**

Expenses reimbursed for travel, meals, room hire, etc. for the purpose of jury duty or witness service shall be retained by the employee and shall not be considered as part of the jury or witness fees.

#### **7.07 Return to Work**

When an employee has been granted court leave for jury duty or witness service, and is excused by proper court authority, the employee shall report back to official place of duty whenever the interruption in jury duty or witness service will permit four or more consecutive hours of employment.

#### **7.08 Employment Rights**

Court leave shall not affect employment rights, opportunities or benefits.

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### **8.00 OTHER LEAVE**

#### **8.01 Bereavement Leave**

Full-time and regular part-time employees shall be granted a leave of absence with pay for a maximum of four calendar days upon evidence satisfactory to the Appointing Authority of the death of a spouse, child, parent, brother, sister, grandparent, grandchild, spouse's parent, or of a person living in the employee's household. Leave shall not exceed a period of four consecutive calendar days either commencing with the date of death or ending after the date of the funeral, at the option of the employee.

#### **8.02 Funerals of Veterans**

Veterans who are members of firing squads, color details, pallbearers, buglers or escorts shall be granted leave of absence with pay to participate in funeral services for other veterans.



### **8.03 Inoculations**

Employees shall be granted leave of absence with pay for loss of time due to prophylactic inoculation required as a result of their employment. If such leave with pay exceeds one week, the Appointing Authority shall immediately initiate a Workers' Compensation claim, and paid leave because of such prophylactic inoculation shall cease.

### **8.04 Quarantine**

Employees shall be granted leave of absence with pay for the period of absence due to quarantine because of exposure to contagious disease in the regular performance of duty.

### **8.05 The Extended Illness Leave Bank (EILB)**

Employees who become members of the EILB are eligible for a maximum of 120 days of paid leave over a two-year period in accordance with M.G.L. Chapter 7, §4P and established procedures when experiencing an extended illness or injury. Intermittent employees are not eligible to join the EILB.

### **8.06 Other Leaves of Absence With Pay**

Full-time and regular part time employees shall be granted leave of absence with pay due to the following reasons for absence. Intermittent employees are not eligible for any of the following leaves of absence with pay:

- Blood donations and, if eligible, annual awards ceremony, in conjunction with the Massachusetts State Employees' Blood Program (four hours maximum).
- Oral, written and physical examinations for state service conducted by the Human Resources Division or the Division of Registration.
- Appeal hearings for state service conducted by the Human Resources Division or the Division of Registration.
- Attendance at hearings in Industrial Accident cases as the injured person or as a witness. (Any witness fees received shall be refunded to the Commonwealth.)
- To render services of a voluntary nature during regular working hours to a public elementary, secondary or vocational-technical school in order to assist in the improvement of a student's or school's educational program, or to act as a mentor in a program through The Mass Mentoring Partnership, not to exceed one work day a month and based upon a schedule approved by his/her supervisor (M.G.L. Chapter 29, §31E).
- The one day a month of paid voluntary leave may be applied for necessary preparations and legal proceedings related to foster care of DSS children.
- Domestic Violence Policy. 15 days of paid leave (and up to 6 months of unpaid leave) for victims to attend to issues resulting from domestic violence.

### **8.07 Delegates to Conventions of Veterans' Organizations**

Employees who are delegates or alternates to state or national conventions of veterans' organizations recognized by the Department of Veterans' Services shall be granted leave of absence with pay to





attend those conventions.

### **8.08 Skeleton Force**

Leave with pay may be granted for so-called "Skeleton Force". Compliance with the "Skeleton Force" authorization shall only be accomplished by the Appointing Authority subject to the conditions that the work of the department or institution will not be hampered and that the statutory requirements pertaining to office hours will be complied with. Employees required to work during Skeleton Force shall not be granted compensatory time off or additional pay in lieu thereof.

If a Skeleton Force is authorized on a day on which an employee is not scheduled to work or if the employee had received approval, prior to the Skeleton Force authorization, to use sick, vacation or personal leave credits, the employee shall be treated the same as if a Skeleton Force had not been authorized.

### **8.09 Voting Leave**

Full-time and regular part-time employees whose hours of work preclude them from voting in a town, city, state or national election shall, upon prior written approval of the Appointing Authority, be granted a voting leave with pay not to exceed two hours, for the sole purpose of voting in such election.

### **8.10 Authorized Leave of Absence Without Pay**

The Department/Agency Head, or his/her designee, may grant an employee a leave of absence without pay, or an extension of such a leave, upon written request of the employee. The request shall include a detailed statement of the reason for the requested leave and, if the absence is caused by illness or injury, shall be accompanied by substantiating proof of such illness or injury. A copy of the approved request shall be placed in the employee's personnel file.

A leave of absence shall not be granted for a period in excess of three months without prior approval by the Appointing Authority.

If an employee shall fail to return to his/her position upon completion of the period for which a leave of absence without pay has been granted, the Appointing Authority shall, within 14 days after the completion of such period, give notice that the employee is considered to be terminated.

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## **9.00 TRAVEL EXPENSES AND MEAL REIMBURSEMENT**

### **9.01 Out of State Travel**

No expenses for out-of-state travel, including the use of state-owned cars, shall be reimbursed unless prior approval is given by the Appointing Authority and Cabinet Secretary (M.G.L., Chapter 30, §25B).

### **9.02 Economy of Travel Expenses**

In every case the means of transportation which is least expensive to the Commonwealth and which is in the interest of economy, with proper consideration to the circumstances, should be used. Railroads or busses are preferred to transportation by plane, taxi or privately-owned automobile.



Commutation and reduced-rate round trip tickets shall be used when possible. The cost of transportation shall include fares less federal taxes. Pullman charges will not be reimbursable for distances less than 100 miles; when they are used, Pullman check or voucher shall be submitted. Reference should be made to the detailed procedures for cost-effective authorized travel as issued by the State Purchasing Agent.

### **9.03 Travel Between Home and Work Assignment**

- Transportation of any kind between an employee's home and permanently assigned office (official headquarters) is not reimbursable (M.G.L., Chapter 30, §25).
- If employees travel from home to temporary assignments rather than to their permanently assigned offices, transportation expenses shall be allowed either for the distance from their homes to places of temporary assignment, or from their permanently assigned offices to places of temporary assignment, whichever is nearer.
- In all instances in which the Appointing Authority assigns the employee's home as his/her permanent office, prior approval must be given by the Personnel Administrator before such assignment becomes valid.
- The designation of the permanently assigned office for purposes of this rule by the Appointing Authority with the approval of the Personnel Administrator shall be final unless the employee files an appeal within 10 days in accordance with Rule 1.05.

### **9.04 Full Travel Status**

This is defined as temporary absence from home on assignment to duty for more than 24 hours. The following items shall be reimbursable while on full travel status:

- Reasonable charges for hotel rooms, based upon submission of receipted hotel bill.
- Reasonable tips other than those for meals.
- Telephone and facsimile (fax) charges over 25 cents, if itemized and listing the exchange called or place to which fax was sent.

### **9.05 Unallowable Travel Expenses**

Reimbursement shall not be made for expenses incurred for the sole benefit of the traveler, such as valet service, entertainment, laundry service, etc.

### **9.06 Duration of Full Travel Status**

Full travel status, other than out-of-state travel, for any employee shall not exceed a period of 30 consecutive days unless prior approval is given by the Personnel Administrator.

### **9.07 Use of State-owned Automobiles**

- State-owned cars shall be used on official business only. They shall not be operated outside the necessary working hours (working hours to include time required to travel to and from place of authorized garaging).





- Pleasure riding or use for private purposes is absolutely forbidden.
- No operator of a state-owned motor vehicle shall transport a passenger or passengers other than those traveling on official business except with the approval of the Appointing Authority.

### **9.08 Liability When Using State-owned Automobiles**

Operators are personally responsible for damage liabilities arising from accidents occurring during non-work related travel or involving passengers not traveling on official business. Any accident in which a state-owned vehicle is involved shall be reported immediately to the Secretary of Administration and Finance. Any such accident involving death or personal injury shall be reported immediately in writing to the Registrar of Motor Vehicles. (M.G.L., Chapter 90, §26).

### **9.09 Reimbursement of Expenses of State-owned Automobiles**

Reimbursement shall be allowed for expenses incurred in the operation of state-owned cars, including charges for gas, oil and reasonable charges for minor repairs, public garage and parking fees, toll charges and reasonable charges for car washing.

### **9.10 Privately-owned Automobiles and Mileage Rate**

- When use of a person's private car is necessary and has been authorized by the Appointing Authority, the approved mileage rate will be allowed. This approved rate covers all charges, including garaging, parking, toll charges, etc.
- The mileage rate is \$.27 per mile. Effective on January 1, 2001, the mileage rate will increase to \$.28 per mile. Effective on January 1 of each following year, the Personnel Administrator may increase the mileage rate to be equal to the highest rate allowed by the Secretary of Administration and Finance for collective bargaining employees covered by M.G.L., Chapter 150E (M.G.L., Chapter 30, §25).
- For each trip, the city or town visited must be reported. If several addresses are visited within a city or town, state the number visited and total mileage covered.
- Mileage reported shall be based upon actual odometer readings.
- Private automobile mileage reimbursement shall be payable only to one of two or more employees traveling together in the same vehicle.

### **9.11 Unallowable Expenses for Automobiles**

- No reimbursement shall be allowed or obligation incurred for the private garaging of a state-owned automobile operated by an employee as transportation from the place of employment to the vicinity of residence.
- No payment shall be made or obligation incurred for the garaging of any automobile in private garages under any circumstances except upon prior approval by the Secretary of Administration and Finance.
- No charges for simonizing, polishing, or repainting will be allowed unless approved in advance by the State Purchasing Agent.



## **9.12 Meal Reimbursement**

- The rules on meal reimbursement (Rules 9.12 to 9.18) apply to all persons employed by offices, departments, boards, commissions and other agencies receiving state appropriations (see Rule 1.04 and M.G.L., Chapter 7, §28).
- Reimbursement shall be allowed for meals while on full travel status.

## **9.13 Amount of Meal Reimbursement**

Reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed the following:

- Breakfast\$ 5.00
- Lunch (midday meal)\$ 6.50
- Supper (evening meal)\$13.00

The rates for lunch and supper may be reversed at the option of the person when entitled to both meals in one day. The rates above shall apply only when meals are not included in the rate charged for lodging or otherwise included in registration or conference fees.

## **9.14 Meal Reimbursement for Certain Unclassified Employees**

- Rule 9.13 shall not apply to any Cabinet Secretary or Department Director.
- Reimbursement for those persons shall be the reasonable and necessary meal expenses as may be allowed by the Appointing Authority or person designated by statute to approve expenses.

## **9.15 When Meals May be Reimbursed**

For travel status of 24 hours or more, the following are the allowances on the first day:

- When travel status begins before 6:00 A.M., the person will be entitled to breakfast, midday and evening meals.
- When travel status begins between 6:00 A.M. and noon, the person will be entitled to midday and evening meals.
- When travel status begins between noon and evening, the person will be entitled to the evening meal.

For travel status of 24 hours or more, the following are the allowances on the final day:

- When travel status ends between 6:00 A.M., and noon, the person will be entitled to breakfast.
- When travel status ends between noon and 6:00 P.M., breakfast and midday meals will be allowed.
- When travel status ends after 6:00 P.M., breakfast, midday and evening meals will be allowed.





Breakfast at beginning and evening meal at end of travel status will not be allowed unless the charge is accompanied by a statement of necessity for early departure or late return.

### **9.16 Meal Reimbursement for Travel Less Than 24 Hours in Duration**

- For travel of one day's duration starting two hours or more before compensated time, the person will be entitled to the breakfast allowance. Voucher must state time of departure and time compensation commenced.
- For travel of one day's duration ending two hours or more after compensated time, the person will be entitled to the evening meal allowance. Voucher must state the time compensation ceases and time of arrival home.
- In no event will the midday meal be allowed for travel of less than 24 hours' duration.
- Voucher must state necessity for early departure or late return as well as a statement giving the regularly scheduled work hours.
- In computing travel under this rule, the two hour travel time must be computed from the person's permanently assigned office or home, whichever is nearer to the place of temporary assignment.

### **9.17 Meals Reimbursement for Inmates/Patients**

Reimbursement at the rates in Rule 9.13 shall be made for meal expenses incurred by an employee who purchases a meal or meals for inmates or patients who are being transferred from one institution to another, or an employee who is assisting in the performance of official duties. In all such cases, the name or the number of the inmate or patient must be stated.

### **9.18 Unallowable Meal Reimbursement**

Meals served by air and steamship lines at no charge to the traveler or where the price of passage includes a meal or meals shall not be reimbursable.

### **9.19 Foreign Travel**

- Employees traveling in foreign countries shall report their expenditures by items in dollars, noting on hotel bills and other receipts submitted with vouchers the equivalent value in dollars at the then current rate of exchange.
- Supplemental expenses such as fees for passports, visas, photographs, birth and marriage certificates and inoculations shall be reimbursable.

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## **10.00 HOURS OF EMPLOYMENT AND OVERTIME**

### **10.01 Tour of Duty**

The regular hours of work of full-time employees are restricted to five tours of duty in any one workweek, and to not less than 37.5 hours (except in the case of part-time employment) nor more



than 40 hours, and with like hours for like tour of duty classes, as determined by the Personnel Administrator in accordance with M.G.L., Chapter 30, §45.

The tour of duty is hereby restricted to eight hours, and such tour of duty shall be arranged to fall within a period not exceeding 10 consecutive hours.

This rule shall not apply to the following:

- Employees in functions described in M.G.L., Chapter 149, §30A.
- Employees on full travel status (see Rule 9.04).

A tour of duty is the period of time elapsing in the performance of assigned tasks and immediately preceded and followed by a period of time of non-scheduled work of at least eight hours duration in both instances.

When necessary, an employee may be assigned more than one 'tour of duty' on the same workday provided that an interval of at least 16 hours elapsed between the start of the first tour of duty and the start of the second tour of duty. For reporting purposes, each tour of duty shall be treated separately and charged to the calendar day on which it began just as though all service in each tour of duty had been performed on the day to which charged.

## **10.02 Overtime**

Employees who perform service in excess of a tour of duty of seven and one-half hours or eight hours within a period of ten consecutive hours shall receive additional compensation at the regular rate up to and including eight hours in one day or total service of 40 hours per work week.

Employees who perform service in excess of eight hours in any one tour of duty or 40 hours in any one workweek shall be compensated at the rate of one and one-half times the regular hourly rate of said employee for every hour or fraction thereof of such services rendered.

Employees may only be paid overtime compensation upon the prior written approval of the Appointing Authority, and the Cabinet Secretary where applicable (M.G.L. Chapter 30, §24C).

This rule shall not apply to the following:

- Employees in functions described in M.G.L., Chapter 149, §30B.
- Employees on full travel status (see Rule 9.04).
- Managers in positions classified at M-IX and above.
- Managers in positions classified at M-V through M-VIII, unless the position has received prior approval for overtime compensation by the Personnel Administrator and Secretary of Administration and Finance.

The provisions of the U. S. Fair Labor Standards Act shall be followed where applicable.

## **10.03 Payment of Overtime**

Authorized overtime should be scheduled for payment at the end of each month and within 60 days after the overtime work was performed.





#### **10.04 Compensatory Time**

Compensatory time in lieu of overtime will not be allowed.

#### **10.05 Intermittent Employees**

Intermittent employees are hereby exempted from the five tours of duty in any work week as well as the eight hour tour of duty in ten consecutive hours in any work day. All such employees are, however, not exempt from the provisions of the 37.5 or 40 hour work week.

#### **10.06 Curtailment of Hours and Changes in Schedule**

Curtailment of the hours of service scheduled in one tour of duty to offset excess hours of service performed in another tour of duty is prohibited.

Whenever an Appointing Authority desires to change the work schedule of an employee under his jurisdiction, he must give any employee affected at least five days notice in writing of such contemplated change, except in cases of emergency involving the protection of the property of the Commonwealth and the health and safety of those persons entrusted to its care and/or custody, but not for the purpose of avoiding the payment of overtime.

#### **10.07 Service for Overtime Purposes**

Service for overtime purposes shall include all compensated time except the additional holiday compensation provided in M.G.L., Chapter 30, §24A.

Whenever a claim for meals consumed is made under the provisions of Rule 10.10, the time involved in partaking of such meals shall not be included in the time for which overtime compensation is claimed. Actual time, but not less than one-half hour in any instance shall be excluded for this purpose.

#### **10.08 Hourly Rate**

"Hourly rate," as used in this Rule, shall be the employee's regular rate of compensation if the service is rendered in his/her salary grade.

#### **10.09 Out of Grade Overtime Work**

An employee rendering overtime service out of the grade in which he/she is regularly employed shall receive:

- His/her regular salary unless it is lower than the minimum of the grade in which overtime is served, in which case he/she shall be paid at the minimum rate of the grade in which service is rendered.
- His/her regular salary unless it is higher than the maximum of the grade in which overtime is rendered, in which case he/she shall be paid at the maximum rate for the grade in which service is rendered.
- His/her regular salary unless there is no equivalent salary rate in the grade in which overtime service is rendered, in which case he/she shall be paid the next higher salary rate in said grade, or



- His/her regular salary if the duties performed in the lower grade are, in the opinion of the Appointing Authority, essentially a part of the duties of the higher grade, in which case the employee may receive his/her regular rate of salary in the higher grade.

### **10.10 Meal Expenses for Overtime Work**

Employees shall not be eligible for reimbursement for meals consumed during their regular hours of employment, except as provided for under the Travel Rules contained in Section 9.00.

Expenses incurred for authorized meals as a result of approved overtime work shall be reimbursed in addition to overtime compensation.

Reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed the following:

- Breakfast \$5.00
- Lunch (midday meal) \$6.50
- Supper (evening meal) \$13.00
- Midnight Meal \$5.00
- For the purposes of these rules, the following shall be considered as meal periods:
- Breakfast period: From 3:01 AM to 9:00 AM
- Lunch period: From 9:01 AM to 3:00 PM
- Supper period: From 3:01 PM to 9:00 PM
- Midnight meal period: From 9:01 PM to 3:00 AM

If an employee works a regular tour of duty, and, in addition, works three or more hours, exclusive of meal time, he/she shall be entitled to reimbursement, in accordance with this Rule, for the meal covered by the period in which such additional work begins.

If an employee works a regular tour of duty, and, in addition, works seven or more hours, exclusive of meal time, he/she shall be entitled to reimbursement, in accordance with this Rule, for two meals, starting with the meal covered by the period in which such additional work begins.

If an employee works a regular tour of duty, and, in addition, works 11 or more hours, exclusive of meal time, he/she shall be entitled to reimbursement, in accordance with this Rule, for three meals, starting with the meal covered by the period in which such additional work begins.

If an employee works on a day on which he/she is not scheduled to work, the employee shall be entitled to reimbursement, in accordance with this Rule, for meals as follows:

- Number of meals, beginning with
- Hours worked the meal covered by the period
- (exclusive of meal time) in which such work begins
- 3 or more 1
- 7 or more 2
- 11 or more 3
- 15 or more 4
- For an additional four hours worked not including time for meals an additional meal shall be allowed.





## **11.00 HOLIDAYS**

### **11.01 Definition of Holidays**

The following days shall be paid holidays for employees:

- New Year's Day Independence Day
- Martin Luther King Jr. Day Labor Day
- Presidents' Day Columbus Day
- \*Evacuation Day Veterans' Day
- Patriots' Day Thanksgiving Day
- Memorial Day Christmas Day
- \*Bunker Hill Day
- \* Suffolk County Only

### **11.02 Holidays Occurring on Regularly Scheduled Workdays**

When a holiday occurs on the regularly scheduled workday of a full-time employee, he/she, if not required to work that day, shall be entitled to receive his/her regular day's pay for such holiday.

### **11.03 Holidays Occurring on Days Other Than Regularly Scheduled Work Days**

An employee whose usual workweek is five or more days and whose regular day off falls on any of the aforementioned holidays except when such holiday occurs on Saturday, shall be allowed an additional day off or payment in lieu of one day.

Legal holidays that fall on a Saturday shall be observed on that day. All offices under the jurisdiction of any department of state government shall be open to the public for business on the Friday preceding any Saturday holiday. However as many employees as possible should be given Friday off. Employees assigned to work shall be given an additional day off as the law allows (usually the following Monday), or, in lieu thereof, an additional day's pay; and provided, further, that this rule shall not apply to heads of departments and divisions, superintendents of institutions in the departments of Mental Health, Mental Retardation, Public Health, Corrections, Youth Services, Soldiers' Home in Massachusetts, and Soldiers' Home in Holyoke, and principal officers in correctional institutions (M.G.L., Chapter 30, §24A).

A legal holiday shall be observed the day following when said holiday shall occur on Sunday.

### **11.04 Employees Required to Work on Holidays**

An employee required to work on a holiday shall receive a compensatory day off with pay within sixty days following the holiday to be taken at a time approved by the agency head or if a compensatory day cannot be granted by the Appointing Authority due to a shortage of personnel or other reasons, then the employee shall be entitled to pay for one day at his/her regular rate of pay in addition to pay for the holiday worked.

### **11.05 Amount of Holiday Pay**

Holiday pay as provided in M.G.L., Chapter 30, §24A shall not exceed compensation paid for one tour of duty.

### **11.06 Holiday Pay for Part-Time Employees**



A regular part-time employee who works five days a week shall receive a day off with pay for each holiday. Holidays occurring on days other than regularly scheduled workdays are treated as described in section 11.03. A regular part-time employee who works fewer than five days a week shall receive a day off with pay when a holiday falls on a day he/she is scheduled to work. The employee shall not receive a day off with pay when the holiday falls on a day on which the employee is not scheduled to work.

Intermittent employees are not eligible for holiday pay.

### **11.07 Restrictions on Holiday Pay**

- An employee who is on leave without pay or absent without pay for that part of his/her scheduled workday immediately preceding or immediately following a holiday that occurs on a regularly scheduled workday for which the employee is not required to work, shall not receive holiday pay for that holiday.
- An employee scheduled to work on a holiday, who fails to report for work on that day shall be deemed to be on absence without pay unless the employee provides evidence of illness by a doctor's certificate. When an employee produces such evidence of illness, sick leave credits, if any, shall be charged for that day and no holiday pay shall be paid or an additional day off granted.

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## **12.00 CHARGES TO STATE PERSONNEL**

### **12.01 Rental of State Facilities**

Employees may be allowed to rent living quarters in state facilities only in accordance with regulations and rental schedules issued by the Secretary of Administration and Finance as authorized by M.G.L., Chapter 7, §3B.

### **12.02 Meals at State Institutions for Employees**

Employees of state institutions may purchase meal tickets for meals consumed in institution dining rooms or cafeterias; the rates for such tickets will be determined by the Secretary of Administration and Finance in accordance with regulations authorized by M.G.L., Chapter 7, §3B.

### **12.03 Meals at State Institutions for Volunteers**

Appointing Authorities in the Departments of Mental Health, Mental Retardation, Public Health, Corrections, Education, Youth Services and the Soldiers' Homes may, where the services rendered by the individuals are, in their opinion, of material benefit to the respective institution and to the Commonwealth, allow meals free of charge to Affiliate Student Nurses, Social Service Students, Medical Students, Medical Student Interns, other student or volunteer workers, or any other persons who receive no compensation from the Commonwealth.

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## **13.00 TUITION REMISSION**





### **13.01 Applicability**

Tuition remission shall apply to full-time employees who have completed at least six months of service and their spouses only.

### **13.02 Tuition Remission Benefits**

- Full tuition remission shall apply to enrollment in a state-supported course or program at the undergraduate or graduate level at any Community College, State College or State University (excluding the M.D. program at the University of Massachusetts Medical School).
- 50% tuition remission shall apply to enrollment in a non-state supported course or program offered through continuing education at any Community College, State College or State University (excluding the M.D. program at the University of Massachusetts Medical School).

### **13.03 Limitations and Approval**

- Tuition remission is subject to space available and to the usual admission policies of the college or university.
- Prior approval must be granted by both the Personnel Administrator and the Board of Higher Education in accordance with their Tuition Remission policies and procedures.
- It is understood that any program of spousal eligibility developed by the Board of Higher Education in conjunction with the Human Resources Division will require the subordination of spousal eligibility rights to those remission benefit rights extended to full-time state employees.

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## **14.00 PREVENTION OF ACCIDENTS AND OCCUPATIONAL DISEASES**

### **14.01 Inspections and Maintenance; Reports**

- It shall be the duty of all Appointing Authorities to provide a safe, clean, wholesome surrounding in all places of employment coming under their jurisdiction. They shall at least once every week cause the inspection of premises to maintain good housekeeping in every place of employment under their jurisdiction and shall have a written report thereof made to them at least once a month by the person or persons to whom such task is assigned.
- Appointing Authorities shall cause all places of employment maintained by their respective departments to be inspected as to lighting, floors, ceilings and walls, stairs, roof, ladders, tables, filing cabinets, lifting devices, benches, chairs, heating equipment, electric fans, storage spaces, trucks, conveyor belts, containers, packing cases, machines, tools, and any other physical property used in such place of employment. In worksites in which employees use video display terminals, the Division of Occupational Hygiene shall inspect VDT equipment.
- Appointing Authorities shall inform employees of any toxic or hazardous materials in the workplace in accordance with M.G.L., Chapter 111F (Right to Know Law).
- Appointing Authorities shall make an annual report to the Personnel Administrator within 60 days after July 1<sup>st</sup> of each year in which they shall furnish information regarding the weekly



inspection referred to above.

- These reports shall furnish information regarding the number of industrial accidents which occurred in such departments, showing their cause, action taken to prevent recurrence, a copy of any instructions issued to supervisors regarding unsafe equipment or methods as provided in Rule 14.02, number of lost days in each accident, the name and title of employee involved, the amount of sick leave in days and dollars used by such employee because of industrial accident, and if accident was caused by violence of prisoner or patient, the amount of salary paid and the effort made to ascertain if and when the employee would be able to return to his/her position, the replacement, if necessary, for such employee during the leave of absence because of this industrial accident, and the activity put into motion to prevent industrial accidents during the year.
- In the case of locations such as manholes where valves or other control devices may be located, the supervisor shall ascertain that no noxious or poisonous gases are present therein before permitting other workers to descend therein for any purpose whatsoever.
- When such noxious or poisonous gases are present, such conditions must be remedied before any worker is permitted to descend into such enclosure. The use of harnesses or other protective devices must be used where any danger is present.
- In the case of bursting water mains requiring excavation to make necessary repairs, the supervisor shall make sure that proper shoring has been provided to protect against possible "cave-in."

#### **14.02 Unsafe Equipment**

Appointing Authorities shall cause instructions to be issued to all supervisors in their departments not to permit any unsafe equipment to be used nor any unsafe work methods to be used in any instance to the end that accidents will not occur because of such equipment or method.

#### **14.03 Defective and Worn-out Tools**

If a tool, machine or piece of equipment is found to be defective, worn-out or dangerous to operate because of its condition, the immediate supervisor shall be instructed not to permit its use until it is authorized by the Appointing Authority.

#### **14.04 Use of Tools**

Appointing Authorities shall at all times be concerned with the safety and health of all persons under their jurisdiction. They must not permit any person who is not adequately experienced or familiar with the use of tools, machinery or equipment to use such material until adequate experience or familiarity with such material is possessed by said person.

#### **14.05 Issuance of Instructions**

Appointing Authorities shall issue instructions to supervisors to carry out the provisions of these rules to the end that accidents and industrial or occupational diseases are kept at a minimum.

#### **14.06 Reports of Accidents and Diseases to the Human Resources Division**

Whenever an accident or industrial or occupational disease claim is filed with the Division of Industrial Accidents by an employee, a copy of the report form and claim shall be sent to the Human Resources Division by the Appointing Authority.





#### **14.07 Division of Industrial Accidents- Hearings**

The Division of Industrial Accidents, within 21 calendar days of receipt of such claim, shall notify the Human Resources Division whether or not it is taking jurisdiction of the claim and, if necessary, when hearing will be given to claimant.

#### **14.08 Decisions of Division of Industrial Accidents - Forwarding**

The Division of Industrial Accidents shall forward to the Human Resources Division a copy of its decision in all claims filed with it by employees and referred to in Rule 14.06. Such decision shall state the approximate duration of such award, if any. If such decision is modified, amended or repealed, the Division of Industrial Accidents shall notify the Human Resources Division of such change.

#### **14.09 Reporting of Unsafe Conditions**

Employees shall report to their immediate supervisors any condition which they believe endangers their health or creates hazard in their employment. Such immediate supervisors shall correct the conditions complained of, if within their authority to do so, or shall report such complaints to their supervisors in report referred to in Rule 14.01, above.

#### **14.10 Posting of Rules**

All Appointing Authorities shall cause to be posted in a conspicuous place in every place of employment under their jurisdiction a copy of all these rules pertaining to prevention of accidents and industrial or occupational diseases.

#### **14.11 Complaints - Forwarding to Head of Department**

- Whenever a written complaint is filed by an employee with the Personnel Administrator describing in detail and accompanied by supporting evidence of any allegedly unsafe or unsanitary condition relating to the work of such employee, the Personnel Administrator shall cause a copy of such complaint to be sent to the Appointing Authority for his/her immediate comments.
- The Personnel Administrator shall investigate such complaint and shall report thereon with his/her recommendations to the Secretary of Administration and Finance with a copy thereof to the employee filing the complaint and to the Appointing Authority involved.

#### **14.12 Rules to be Supplemental**

All the above rules do not change or alter any rules previously issued on the subject matter of reporting accidents or industrial or occupational diseases issued by any department prior to the effective date of these rules, but are in addition thereto.

#### **14.13 Incorporation by Reference - Enforcement**

Rules and regulations issued by the Division of Industrial Accidents and any other rule or regulation adopted by the Department of Labor and Workforce Development governing the prevention of accidents or industrial diseases, are all hereby incorporated into these rules and regulations and shall be in full force in all departments. Appointing Authorities are hereby charged with the responsibility to enforce these rules and regulations and shall see that the rules are adhered to in all places of employment coming under their jurisdiction.



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## **15.00 ADOPTION ASSISTANCE PROGRAM**

### **15.01 Eligibility**

Employees shall be eligible for the Adoption Assistance Program based upon guidelines issued by the Human Resources Division in cooperation with the Department of Social Services and the Board of Higher Education.

The program will provide certain benefits to employees who adopt a child from the Department of Social Services.

### **15.02 Leave Benefits**

Such employees will be eligible for the following leaves in connection with such adoption:

- Up to 52 weeks of FMLA unpaid leave of which:
- Up to 2 weeks (10 days) of Adoptive Assistance Leave (paid leave) per adopted child may be taken (see also Rule 5.02) (under FMLA rules), and;
- Up to 12 weeks of accrued paid sick leave may be taken for the purpose of parental leave due to adoption under FMLA rules, to be concluded within 12 months of the adoption (see also Rule 4.07).
- The total of the above types of paid leave shall not exceed 14 weeks in one calendar year.
- Up to 2 weeks (10 days) of accrued paid sick leave per calendar year may be taken for the purpose of attending to necessary preparations and legal requirements related to the adoption (see Rule 4.07).

### **15.03 Educational and Other Benefits**

Other benefits include:

- For the employee: Adoption Support Services as provided by the Department of Social Services
- For the adopted child: College/university tuition remission at a Massachusetts State College/University or Community College (see Tuition Remission rules in section 13.00), and corporate sponsorship arranged by the Department of Social Services.

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